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SUBJECT: CONVENTION ON SUPPLEMENTARY COMPENSATION FOR NUCLEAR
DAMAGE: SAUNDERS DELEGATION VISITS BEIJING TO DISCUSS RATIFICATION
WITH CHINESE GOVERNMENT

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Sensitive but unclassified - please protect accordingly.

REF: A. 08 STATE 54213
[1](#)B. 08 BEIJING 3625
[1](#)C. STATE 008775

SUMMARY

[1](#)1. (SBU) Acting Assistant Commerce Secretary Mary Saunders on January 14 led a delegation made up of USG officers from Commerce, Energy, and State, and U.S. nuclear industry representatives to discuss the Convention on Supplementary Compensation for Nuclear Damage (CSC) with China's National Energy Administration (NEA) and the China Atomic Energy Authority (CAEA). NEA and CAEA officials acknowledged that joining the CSC would likely benefit China's nuclear industry and also noted that the CSC provides a good legal basis for Japan and Korea--both of which appear to be moving towards CSC ratification. Chinese officials reacted positively to a Korean offer to host a tri-lateral conference designed to raise awareness of the CSC, but cautioned that they were not as far along in their evaluation of CSC and were not yet ready to commit to attending such a conference. Chinese officials also noted that CSC ratification would likely require a lengthy interagency coordination period and

some modifications to China's existing nuclear liability legal regimes. END SUMMARY.

12. (SBU) BACKGROUND: Per Ref. A, the CSC was drafted under the aegis of the International Atomic Energy Agency (IAEA) and intended to become the global nuclear liability regime. The CSC was drafted to address shortcomings in the extant nuclear liability regimes and provide for prompt and fair compensation to victims of nuclear accidents. The CSC was finalized in 1997, and the U.S. deposited its instrument of ratification with the IAEA in May, 2008. At present, four nations have ratified the CSC. It will enter into force when at least five nations with a minimum of 400,000 megawatts thermal generated from nuclear power plants have ratified the Convention. Establishing this regime is crucial to achieving the important and complementary U.S. objectives of (1) promoting the use of nuclear power in a safe and secure manner that minimizes proliferation risks and (2) eliminating concerns over liability that currently hampers the ability of U.S. nuclear suppliers to compete for nuclear projects. The focus of USG efforts has now shifted to the international arena, and we are urging other nations to join the CSC. The liability protections offered by the CSC to U.S. nuclear suppliers with regard to a potential customer nation will not be available unless that nation is a member of the CSC. END BACKGROUND.

NEA PROGRESSING WITH CSC IMPLEMENTATION EFFORTS...

13. (SBU) CAO Shudong, the Deputy Director General (DDG) of NEA's Department of Electric Power (the entity responsible for oversight of China's nuclear power industry), led off the discussion by noting that cooperation with the U.S. on the Westinghouse AP1000 nuclear reactor program should stand as an example of how two countries can

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work together. Cao said that in comparison, the European Pressurized Reactor (EPR) project with France was not going smoothly. [NOTE: Cao did not elaborate on EPR-related problems, but may have been referring to recent press reports, which speculate that senior Chinese nuclear officials took bribes from French nuclear power giant and EPR-builder AREVA to win a contract for a project in China's southern Guangdong province. END NOTE.]

14. (SBU) During meetings in 2008, NEA officials stated that China's accession to the CSC would need to follow implementation of a new Atomic Energy Law (AEL), which would not be addressed until after China's new Energy Law is passed (REF B). DDG Cao said this is no longer the case, noting that CSC ratification efforts/studies could go forward in parallel with AEL formulation and that CSC could be adopted prior to AEL passage, which according to Cao may not be for another two years. Cao said China is interested in exporting nuclear technology (jointly with the United States) to developing countries; therefore, the CSC would be advantageous to China. To that end, NEA already has formed a team to evaluate the impacts of CSC. The team is expected to issue its report and recommendations to other government entities in the second half of 2010. Cao also noted that A/S Secretary Saunders' visit had given this effort a boost.

...BUT PROGRESS IS SLOW

15. (SBU) NEA officials agreed with U.S. nuclear industry experts that China's existing nuclear liability law as spelled out in Guo Han 64 is very similar to CSC, therefore only minor changes would be required. Nevertheless, this process will probably not occur as fast as the USG hopes, according to Cao. In addition to China's nuclear bureaucracy, there are a number of other interests involved, and development of a domestic liability law consistent with CSC will require coordination with many organizations, including the Ministry of Finance and Chinese insurance companies. Moreover, subsidiaries under NEA are still being created and responsibilities for the AEL have not been assigned yet, said Cao. [NOTE: Guo Han 64, an official regulation from China's State Council, was drafted with input from Westinghouse and the State Nuclear Power Technology Corporation (SNPTC) prior to the signing of the Westinghouse AP1000 contract in July 2007. It includes some stipulations that coincide with the CSC, such as channeling liability to the operator and putting civil claims under the jurisdiction of a single court

system. Guo Han 64 also stipulates that the nuclear liability issue will be included in the new Atomic Energy Law when it is concluded.
END NOTE.]

16. (SBU) NEA officials were anxious to know where Korea and Japan stood in the ratification process. Following the U.S. briefing, NEA acknowledged that it was not as far along in analyzing the impacts of CSC ratification. A/S Saunders highlighted Korea's offer to host a trilateral forum to raise awareness of the CSC, noting that this could help speed the interagency coordination process (REF C). Participants would include government and industry representatives from Korea, Japan, and China, while the U.S. would participate in an advisory role. DDG Cao said that although the idea was a good one,

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NEA would have to coordinate with leaders at the National Development and Reform Commission (NEA's parent organization) before committing.

17. (SBU) DDG Cao commented on a recent article in the New York Times that raised concerns about the safety of China's ambitious nuclear power program. He said that the article had gotten the attention of China's senior leaders. He added that the Government placed great importance on nuclear safety; safety is paramount over development. Regarding the supervisory capacity of China's nuclear regulator, the Ministry of Environmental Protection's National Nuclear Safety Administration (MEP/NNSA), Cao said China has adequate oversight capabilities for the present, but not for future growth in the number of nuclear facilities. However, that deficiency is currently being addressed through an enormous influx of personnel and additional training, according to Cao.

CAEA DELIVERS NEARLY IDENTICAL MESSAGE ON CSC

18. (SBU) In a separate meeting with the China Atomic Energy Authority (CAEA), Systems Engineering Director General (DG), TONG Baotong and Deputy Director of CAEA's International Cooperation Department, SONG Gongbao, delivered a similar message to that of NEA. Tong said that although China participated in drafting the CSC and he himself is on the IAEA CSC working group, China has yet to join. The major reason for this is the gap, albeit small, between existing domestic legislation and CSC and the significant interagency coordination required. Tong said that Premier WEN Jiaobao had raised a number of difficult questions regarding nuclear liability during the discussion leading up to Guo Han 64 (see para 5), and that explaining CSC to China's leaders will be even more challenging and will likely require the help of U.S. officials. Therefore, the Korean proposal to hold an information forum on CSC is very positive, according to Tong. He also noted that such a meeting would benefit the bulk of China's nuclear power plant operators and national insurance companies, which also are not familiar with CSC.

19. (SBU) DG Tong said that no timetable exists for joining the CSC but he concurred with NEA that waiting for domestic legislation such as the AEL would take far too long and CSC accession should be promoted first and new domestic legislation can then be formulated around the CSC. This year two tasks are critical to moving CSC forward, according to Tong. The first is to hold the trilateral forum as proposed by Korea and the second is for CAEA to inspect China's operational nuclear power plants to deduce their compliance with Guo Han 64 and CSC, respectively. Finally, Tong asked about lessons learned during the eleven-year period it took the U.S. to ratify CSC. Beyond issues that were unique to the U.S. system of government, A/S Saunders said that getting insurance companies and plant operators involved as early as possible is crucial to an efficient and speedy evaluation process.

110. (U) This cable was cleared by DOC Acting Assistant Secretary Saunderson's delegation.

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